

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 556**

**Introduced by Assembly Member Gordon**

February 16, 2005

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An act to add Sections 21669.5 ~~and 21669.7~~ 21699.7, 21669.8, and 21669.9 to, the Public Utilities Code, relating to aeronautics.

LEGISLATIVE COUNSEL'S DIGEST

AB 556, as amended, Gordon. Airports: noise impacts.

(1) The State Aeronautics Act governs the establishment and operation of airports in this state. The act requires the Department of Transportation to adopt noise standards governing the operation of aircraft and aircraft engines based upon the level of noise acceptable to a reasonable person residing in the vicinity of the airport.

This bill would ~~authorize~~ *require* a proprietor of an airport having a noise impact area, as defined, to request *from the department* a variance from noise standards in effect on January 1, 2006, for a period not exceeding 3 years, in accordance with prescribed procedures, *including provision for a public hearing and for notice of the hearing to entities within, or associated with, the noise impact area*. The bill would prohibit an airport proprietor from operating an airport with a noise impact area unless the operator has applied for and received a variance in accordance with the bill. *This bill would provide a procedure for an airport proprietor to apply for the extension of the variance.*

(2) A violation of the act is a crime.

This bill, by imposing the prohibition on airport proprietors operating without a variance, would create a new crime, thereby imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21669.5 is added to the Public Utilities  
2 Code, to read:

3 21669.5. (a) A proprietor of an airport having a noise impact  
4 area, as defined in Section ~~21669.7~~, ~~may~~ 21669.9, shall request a  
5 variance from Section 5012 of Title 21 of the California Code of  
6 Regulations in effect on January 1, 2006, for a period not  
7 exceeding three years as set forth in this section. ~~If a previous~~  
8 ~~variance has been granted, the department shall grant or deny a~~  
9 ~~new request within six months after the date of the previous~~  
10 ~~variance.~~

11 (b) The procedures for requesting the variance are as follows:

12 (1) The airport proprietor shall apply to the department for a  
13 variance.

14 (2) An application for a variance shall be made upon a form  
15 that the department shall make available.

16 (3) The application shall set forth the reasons that support the  
17 necessity of a variance. The application shall state the date by  
18 which the airport proprietor expects to achieve compliance with  
19 the requirement that there not be a noise impact area. The  
20 application shall set forth an incremental schedule of noise  
21 impact area reductions for the intervening period.

22 (c) *The department shall withhold its final determination with*  
23 *regard to an application for a variance to provide adequate time*  
24 *for notice to, and review and comment by, the general public,*  
25 *landowners, residents, interested groups, local governments, and*  
26 *other public agencies within the noise impact area of the airport.*

27 (e)

28 (d) In granting variances, the department shall be guided by  
29 the underlying policy that the proprietor of each existing airport

1 having a noise impact area be required to develop and implement  
2 programs to reduce the noise impact area of the airport to an  
3 acceptable degree in an orderly manner over a reasonable period  
4 of time.

5 ~~(d)~~

6 (e) The department may grant a variance if it determines that  
7 to do so would be in the public interest. In weighing the public  
8 interest, the department's considerations include, but are not  
9 limited to, all of the following:

10 (1) The economic and technological feasibility of complying  
11 with the noise standards set by regulation.

12 (2) The noise impact if the variance is granted.

13 (3) The value to the public of the services for which the  
14 variance is sought.

15 (4) Whether the airport proprietor is taking good faith  
16 measures to the best of its ability to achieve the airport noise  
17 standards.

18 ~~(e)~~

19 (f) The department, in granting a variance, may impose  
20 reasonable conditions to achieve the purposes of Chapter 6  
21 (commencing with Section 5000) of Division 2.5 of Title 21 of  
22 the California Code of Regulations in effect on January 1, 2006.

23 SEC. 2. Section 21669.7 is added to the Public Utilities Code,  
24 to read:

25 21669.7. (a) *The department shall hold a public hearing in*  
26 *accordance with the Administrative Procedure Act (Chapter 5*  
27 *(commencing with Section 11500) of Part 1 of Division 3 of Title*  
28 *2 of the Government Code) on the application for a variance.*  
29 *The notice of a hearing shall be mailed by the airport proprietor*  
30 *10 days or more before the date of the hearing to the general*  
31 *public, landowners, residents, interested groups, local*  
32 *governments, and other public agencies within, or otherwise*  
33 *associated with, the noise impact area of the airport for which*  
34 *the variance is sought. The airport proprietor shall also publish*  
35 *notice of a hearing in at least one newspaper of general*  
36 *circulation that serves subscribers in the area in which both the*  
37 *airport and the noise impact area are located. The notice shall*  
38 *include, but is not limited to, the information specified in Section*  
39 *65094 of the Government Code.*

1     **(b)** *The failure of any person or entity to receive notice*  
2 *pursuant to this section or pursuant to procedures established by*  
3 *the department does not constitute grounds for any court to*  
4 *invalidate an action of the department for which notice was given*  
5 *in accordance with this section.*

6     **(c)** *The airport proprietor shall make the variance application*  
7 *and related documents available for public review and comment.*  
8 *Any person may obtain from the department information on a*  
9 *pending request for a variance.*

10     **SEC. 3.** *Section 21669.8 is added to the Public Utilities*  
11 *Code, to read:*

12     21669.8. *If the department has granted a variance and the*  
13 *airport proprietor determines that it cannot within the term of*  
14 *that existing variance achieve compliance with Section 5012 of*  
15 *Title 21 of the California Code of Regulations, in effect on*  
16 *January 1, 2006, the airport proprietor shall request a new*  
17 *variance at least 30 days before the termination date of the*  
18 *existing variance. A variance requested pursuant to this section*  
19 *is subject to Sections 21669.5 and 21669.7. If the airport*  
20 *proprietor makes a timely application pursuant to this section,*  
21 *the existing variance shall continue in effect until the department*  
22 *acts on that application.*

23     **SEC. 4.** *Section 21669.9 is added to the Public Utilities Code,*  
24 *to read:*

25     ~~21669.7.~~

26     21669.9. No airport proprietor shall operate an airport with a  
27 noise impact area unless the operator has applied for and  
28 received a variance in accordance with Section 21669.5. “Noise  
29 impact area” means those portions of the areas contiguous to an  
30 airport that are subjected to a daily average of more than 65  
31 decibels resulting from aircraft, as measured on the community  
32 noise equivalent level.

33     ~~SEC. 3.~~

34     **SEC. 5.** No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the  
39 penalty for a crime or infraction, within the meaning of Section  
40 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

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